



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
Ely Field Office  
702 North Industrial Way, HC 33 Box 33500  
Ely, NV 89301-9408  
<http://www.nv.blm.gov>

In Reply Refer To:

4710.4 (NV-042)

## DECISION RECORD (DR) AND FINDING OF NO SIGNIFICANT IMPACT (FONSI)

Deer Lodge Canyon HMA Emergency Gather Plan  
Ely Field Office

ENVIRONMENTAL ASSESSMENT  
NV 040/02/076

August 1, 2002

### INTRODUCTION

The Bureau of Land Management (BLM) Ely Field Office proposes an emergency gathering of wild horses within the boundaries of the Deer Lodge Canyon wild horse Herd Management Area (HMA). The emergency gather operations will be conducted within the Mahogany Peak and McGuffy Spring Allotments. These allotments encompass approximately 50 percent of the HMA and lie adjacent to the Utah State line. The current population of wild horses within the HMA is 110 horses based upon 2001 census, and approximately 60-75 of these animals are within the emergency gather areas. The primary purpose of the proposed action is to bring the wild horse population within the HMA down to fifty (50) animals, which will prevent deterioration of the health and condition of the vegetative resources, as well as wild horses, during drought conditions. Documents containing this information are filed at the Ely Field Office and/or Caliente Field Station.

### SUMMARY OF PROPOSED ACTION

The proposed action is to remove 65-70 wild horses from the emergency area due to severe drought conditions. This emergency removal would remove all age classes of horses. All horses gathered would be transported to BLM holding facilities and prepared for adoption.

Multiple capture sites (traps) would be used to capture wild horses from the allotments. Whenever possible, capture sites would be located in previously disturbed areas. All capture and handling activities (including capture site selections) would be conducted in accordance with Standard Operating Procedures. The emergency removal of wild horses is tentatively scheduled to commence on August 5, 2002, and last approximately 30 days.

## DECISION RECORD

As a result of the analysis presented in the EA, it is my decision to approve the Proposed Action as stated. Only wild horses within the Mahogany Peak and McGuffy Spring Allotments' portion of the Deer Lodge Canyon HMA will be gathered due to the emergency conditions. No horses will be gathered from the remainder of the HMA under the Proposed Action.

**Rationale:** The proposed action is being selected to prevent deterioration of the health and condition of the vegetative resources during drought conditions, as well as the health of the wild horses within the emergency area.

Selection of the No Action alternative would not be consistent with BLM legal mandates, which state, "Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat." (Title 43, CFR, 4700.0-6(a)).

This alternative is not acceptable to the Bureau nor most members of the public. The Bureau realizes that some members of the public advocate "letting nature take its course", however, allowing wild horses to die of dehydration and starvation would be inhumane treatment and clearly indicates that an overpopulation of wild horses exists in the HMA. The Wild Free-Roaming Horse and Burro Act of 1971 mandates the Bureau to "*prevent the range from deterioration associated with overpopulation*", and "*remove excess horses in order to preserve and maintain a thriving natural ecological balance and multiple use relationships in that area*".

The No Action alternative would not comply with the Mojave-Southern Great Basin RAC Standards and Guidelines for Rangeland Health and Healthy Wild Horse and Burro Populations, which require that "*Wild horses and burros exhibit characteristics of a healthy, productive, and diverse population. Age structure and sex ratios are appropriate to maintain the long-term viability of the population as a distinct group. Herd management areas are able to provide suitable feed, water, cover and living space for wild horses and burros and maintain historic patterns of habitat use*".

## FINDING OF NO SIGNIFICANT IMPACT

Based on the analysis in the EA, I have determined there will not be significant impact to the quality of the human environment; therefore, an environmental impact statement is not required.

**Rationale:** My finding of no significant impact is based on the following:

The action will not affect public health or safety.

The action will have no adverse effects on such unique characteristics as cultural or historic resources, wetlands, wild and scenic rivers, wilderness study areas, or areas of critical environmental concerns.

The action will have no adverse effects on federally listed threatened or endangered species, or on designated critical habitat for these species.

The action will not threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

## REMOVAL DECISION

In accordance with 43 CFR 4770.3 (c), this constitutes my final decision to gather wild horses within the Mahogany Peak and McGuffy Spring Allotments' portion of the Deer Lodge Canyon HMA and is placed in full force and effect.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR, Part 4. If an appeal is taken, your appeal must be filed with the Bureau of Land Management, Ely Field Office, HC33 Box 33500, Ely, Nevada, 89301, within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. Copies of the notice of appeal and petition for a stay must also be submitted to the Interior Board of Land Appeals, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, and to the Office of the Solicitor, U.S. Department of the Interior, Suite 6201, Federal Bldg., 125 South State St., Salt Lake City, Utah, 84138, at the same time the original documents are filed with this office.

If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. A petition for a stay of a decision pending appeals shall show sufficient justification based on the following rules:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success of the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

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James M. Perkins  
Assistant Field Manager for Renewable Resources  
Ely Field Office

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Date

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Gene Kolkman  
Field Manager  
Ely Field Office

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Date

**U.S. DEPARTMENT OF THE INTERIOR**

**BUREAU OF LAND MANAGEMENT**

**ELY FIELD OFFICE**

**DEER LODGE CANYON HERD MANAGEMENT AREA (HMA) DROUGHT  
EMERGENCY GATHER PLAN AND ENVIRONMENTAL ASSESSMENT**

**NV/040/02/076**

**Alan Shepherd**

**July 2002**

## **Background Information**

With passage of the Wild Free Roaming Horse and Burro Act of 1971 (Public Law 92-195), Congress found "...wild free roaming horses and burros are living symbols of the historic and pioneer spirit of the West....". In addition, the Secretary was ordered to "...manage wild free-roaming horses and burros in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands...". From the passage of the Act, through the present day, the Bureau of Land Management (BLM) Ely Field Office has endeavored to meet the requirements of the Act. The procedures and policies implemented to accomplish this mandate have been constantly evolving over the years.

This document has been prepared to assess the environmental impacts of gathering and removing wild horses from the Deer Lodge Canyon Herd Management Area (HMA) which is currently affected by severe drought conditions.

The majority of Lincoln County, Nevada, has received less than 25 percent of normal moisture for the current year, and the area has received less than 3 inches of precipitation for the last 8 months. The area has recorded above average temperatures since April. The dry conditions have resulted in very little or no green up of forage for this year. The Deer Lodge Canyon HMA is located approximately 10 miles east of Panaca, Nevada. This HMA contains all or portions of the Deer Lodge, Mahogany Peak, Condor Canyon, N4N5, Rabbit Spring, and McGuffy Spring Allotments and covers approximately 106,600 acres of public lands. The HMA has an estimated population of 110 wild horses based upon March 2001 census. Drought tours have been conducted within the McGuffy Spring, Mahogany Peak, and Deer Lodge Allotments. Based upon these tours, there is a necessity to take action on the McGuffy Spring and Mahogany Peak Allotments to reduce grazing stress on forage resources during this critical period of drought.

The McGuffy Spring Allotment is located approximately 12 miles east of Panaca, Nevada. This allotment is located in the southeast corner of the HMA and contains approximately 25 percent of the HMA. The grazing operator (Orren Nash) is currently grazing 25 head of cattle year-long on the allotment, and there are approximately 30-35 wild horses in the area. The primary use areas are within the Two Kiln Burn in the northwest portion of the allotment and the second is in the southeast corner along Highway 319. The primary forage areas show very little or no annual growth on the perennial grasses (primarily Indian ricegrass, small galleta, bottlebrush squirreltail grass, and western wheatgrass in the native range areas and crested wheatgrass and slender wheatgrass in the seeded area). The native range areas have received over 60 percent utilization on last year's growth with some areas showing higher levels of use. The wild horses and cattle using the Two Kiln Burn area are using a higher percentage than normal (over 60 percent in the bottoms) and could be impacting the lower elevation portions of the seeding. The horses and cattle are reliant upon 3 small spring sources (less than ½ gallon/minute flows) for water. These sources are beginning to dry up due to the drought conditions and would be unable to support the current numbers of wild horses, livestock, and wildlife present in the area through the drought season. The wild horses and cattle also use well water pumped at a corral in the east central portion of the allotment. Mr. Nash has been notified that the allotment is being closed and to remove all livestock. He has been given until July 31, 2002, to remove all cattle due to the extremely wild nature of the cattle.

Within the Mahogany Peak Allotment, the same overall drought conditions exist. This allotment borders the McGuffy Spring Allotment on the north and contains approximately 25 percent of the HMA. Approximately 30-40 wild horses exist within this area. Drought conditions and heavy utilization levels by wild horses have removed all available forage within two crested wheatgrass seedings, which are the primary forage areas for the allotment. Utilization on last year's forage is over 80 percent in most accessible areas. The horses are reliant upon one small spring (less than a gallon/minute flow) source in the southern portion of the allotment and a small stream channel in the north-central part of the allotment. This stream normally flows for over a mile and now is reduced to three small puddles (2-3 feet long) on the public ground and several (2-3) small stretches (each are approximately two hundred yards long) of water on private fenced ground. A well in the southern portion of the allotment serves as a location for water when the cattle are in the allotment. Both the spring source and small stream are drying up due to drought conditions and would be unable to support wild horses, livestock, and wildlife currently present in the area through the drought season. The wild horses in the north-central portion of the allotment are using several private land pastures, removing all the available forage and damaging the fences surrounding these areas in several places. Based upon visible horse trails, it appears the area is also being heavily influenced by wild horses coming across the state line from Utah. The permittees (Brad and Leon Bowler) have voluntarily closed the allotment prior to turning any livestock into the allotment.

The Deer Lodge Canyon HMA Evaluation/Final Multiple Use Decision (FMUD) recommended an appropriate management level (AML) for the Deer Lodge Canyon HMA at 50 horses yearlong. This FMUD has been appealed by an affected interest, and the BLM has requested that the decision be remanded back to the BLM for further consideration. It is not anticipated that this case will be settled prior to the commencement of emergency gather operations.

### **Need for the Proposal**

The need for this action is to prevent the stress and possible death of wild horses from a lack of water and forage and to reduce grazing stress on forage resources during this critical period of drought.

### **Relationship to Planning**

The proposed action is in conformance with the Caliente Management Framework Plan (MFP), Caliente Grazing Environmental Statement (ES), and subsequent Record of Decision (ROD) dated 1982. The proposed action is consistent with the Lincoln County Public Land and Natural Resource Management Plan as adopted by the Board of County Commissioners of Lincoln County, December 5, 1997. The proposed action is also consistent with the Strategic Plan for Management of Wild Horses and Burros on Public Lands, dated June, 1992, and the "Lincoln County Elk Management Plan" dated July, 1999. It is consistent with federal, state, and local laws, regulations, and plans to the maximum extent possible.

## **Issues**

The issues are the effects on perennial plants and the wild horses' overall health.

## **Proposed Action and Alternatives**

### **Proposed Action**

The proposed action is to remove 65-70 wild horses from within the McGuffy Spring and Mahogany Peak Allotments due to severe drought conditions existing within these areas. The primary objective is to remove the first 65-70 horses captured and transport them to BLM holding facility to be prepared for adoption. Gather operations would start in the Mahogany Peak Allotment where there is currently no livestock grazing authorized per agreement with grazing operator and then would proceed to the McGuffy Spring Allotment following the removal of all livestock by July 31, 2002.

The HMA has an estimated population of 110 wild horses, and the overall concern is that the horses would not have sufficient feed to survive the summer and that they would severely impact the perennial grasses within the allotment. The removal of 65-70 animals would greatly reduce grazing pressure on the limited forage resources and allow the remaining wild horses to survive the remainder of the year, unless conditions worsen. The current proposed method of capture is to water trap the horses in each of the areas. Helicopter trapping would be used should bait trapping prove to be an ineffective means of removing the animals or if animal body condition scores decline significantly.

The purpose of this plan is to outline the methods and procedures to be used in the capture/removal process. Multiple capture sites (traps) would be used to capture the wild horses. Whenever possible capture sites would be located in previously disturbed areas. All capture and handling activities (including capture site selections) would be conducted in accordance with the Standards of Procedures (SOPs) described in Appendix I. The removal of wild horses is tentatively scheduled to commence on July 22, 2002, and last approximately 30 days or however long it takes to capture the identified number of horses.

### **No Action Alternative**

This alternative consists of no direct management of wild horse numbers due to the drought conditions. Wild horses would be allowed to regulate their numbers naturally through predation, disease, and forage, water and space availability. Gather operations would not be conducted.

## **Description of The Affected Environment**

### **McGuffy Spring and Mahogany Peak Allotments**

The McGuffy Spring and Mahogany Peak Allotments are approximately 50,550 total acres in size. Elevations range from 4,500 feet to 6,500 feet. The vegetation within the allotments is typical of the Great Basin types with Wyoming big sage/grass, forest lands (pinyon pine/juniper),

mountain brush, and mixed bunch grasses. Both allotments contain extensive stands of pinyon pine and juniper (P/J) trees. These communities have a very limited understory of sagebrush and other mountain shrubs and a small amount of grass. Small, scattered clearings in the P/J stands are dominated by sagebrush and rabbitbrush communities with grass (western wheatgrass, ricegrass, and bluegrasses) in the understory. These scattered pockets of sagebrush supply the majority of the forage for the horses. Several large areas of the sagebrush and P/J have been chained and then planted with grass and forb species to increase the forage capacity for livestock and wildlife. Permanent water sources consist of 4-5 very small springs (less than 1/2 gallon/minute flow), as well as wells and water troughs installed for livestock grazing. The project area lies within deer and elk year-long habitat.

### **Environmental Consequences (Proposed Action & Alternatives)**

The following critical elements of the human environment are not present and/or not affected by the proposed action: air quality, areas of critical environmental concern, environmental justice, prime or unique farmland, floodplains, Native American religious concerns, special status species (federally listed, proposed or candidate threatened or endangered species, and state sensitive species), wilderness, migratory birds, hazardous and solid wastes, wetlands, visual resource management (VRM), or wild and scenic rivers.

The following discussion identifies potential impacts related to both capture techniques (water and helicopter trapping) as described within the proposed action.

### **Vegetation, Soil, Water Quality (Drinking/Ground), and Riparian Areas**

**Proposed Action** - Implementation of the proposed action would reduce the wild horse population within the identified allotments. The proposed action would decrease the impact of hoof action due to horses on the soil around unimproved springs, which should lead to an improvement in riparian habitat conditions. There would also be a reduction in hoof action on upland habitat areas and reduced competition for extremely limited forage and water sources.

Impacts to vegetation with implementation of the proposed action could include disturbance of native vegetation immediately in and around temporary trap sites, and holding and processing facilities. Impacts could be by vehicle traffic and hoof action of penned horses, and could be locally severe in the immediate vicinity of the corrals or holding facilities. Generally, these activity sites would be small (less than one half acre) in size. Since most trap sites and holding facilities would be re-used during recurring wild horse gather operations, any impacts would remain site specific and isolated in nature. In addition most trap sites or holding facilities are selected to enable easy access by transportation vehicles and logistical support equipment and would therefore generally be adjacent to or on roads, pullouts, water haul sites, or other locations which have been previously disturbed. By adhering to the SOPs, adverse impacts to soils would be minimized.

**No Action Alternative** - The localized trampling associated with trap sites would not occur. However, with large numbers of wild horses being allowed to remain within the HMA during the drought conditions, soil erosion would increase. Continued use within the area during these



severe conditions would adversely impact soils, especially around the water locations. This continued use would lead to increased stress on forage plant species and degraded range conditions. Soil health and future productivity of the rangeland would be impacted. As native plant health deteriorates and plants are lost, soil erosion would increase. The shallow topsoil typical of this region cannot tolerate much loss without losing productivity and thus the ability to be revegetated with native plants. Invasive, non-native plant species would increase and invade new areas following increased soil disturbance and reduced native plant vigor and abundance. This would lead to both a shift in plant composition towards weedy species and an irreplaceable loss of topsoil and productivity from erosion.

## **Wildlife**

**Proposed Action** - The proposed action would result in reduced competition with wildlife for limited forage and water resources as soon as the gather is completed. Temporary impacts during the gather could be displacement of big game and non-game mammals, but they would return after the gather. This displacement would be due to an increase in human activities and vehicle traffic as well as the noise of the helicopter (if helicopter trapping is used). These disturbances would only occur during the capture period.

**No Action Alternative** - Wildlife would not be displaced or disturbed under the no action alternative. However, there would be continued competition with wild horses for water and forage resources. Because wild horses are very aggressive around water sources, some wildlife species may not be able to compete. The continued competition for resources may lead to increased stress and possible relocation or death of native wildlife species.

## **Livestock**

**Proposed Action** - Impacts to livestock operations at the time of the gather, due to normal gather activities, would be non-existent since the gather areas would be closed to livestock grazing. Gather operations would not impact livestock grazing. The gather operations would start in the Mahogany Peak Allotment first, and livestock grazing is currently not authorized within the allotment. Operations would then proceed to the McGuffy Spring Allotment following the removal of all livestock by July 31, 2002. When the existing drought conditions subside, competition for available forage between livestock and wild horses would be reduced with the implementation of the proposed action.

**No Action Alternative** - Livestock would not be affected under the no action alternative as these areas are being closed due to the severe drought conditions. However, with the resumption of livestock grazing following the drought closure period, there would be continued competition with wild horses for water and forage resources. Livestock operations would continue to be impacted if wild horse numbers are allowed to continue to climb without management within the HMA.

## **Noxious Weeds and Invasive Non-Native Species**

**Proposed Action** - The proposed gather may spread existing noxious weed species. This could occur if vehicles drive through infestations and spread seed into previously weed-free areas. BLM specialists would examine proposed trap sites and holding corrals prior to construction. If noxious weeds are found, the location of the facilities would be moved to a location with no noxious weeds.

**No Action Alternative** - Under this alternative, the wild horse gather would not take place. However, overgrazing and increased stress of the present plant communities during a severe drought period could lead to elimination of native plant species and an expansion of noxious weeds. Rangeland in poor condition provides less forage and is more susceptible to invasion by non-native weeds.

## **Cultural, Paleontological, and Historical Resources**

**Proposed Action** - No impacts to cultural resources are anticipated to occur since all trapsites and holding facilities would be inventoried for cultural resources prior to construction. As stated in the SOPs, an archaeologist or a District Archeological Technician (DAT) would review all proposed and previously used trap sites and facility locations to determine if these sites have had a cultural resources inventory, and/or if a new inventory is required. If cultural resources are encountered at proposed trap site(s) or holding facility location(s), those location(s) would not be utilized unless it could be modified to avoid impacts to cultural resources.

**No Action Alternative** - Under this alternative, the wild horse gather would not take place, and no trap sites or holding facilities would be constructed. Cultural resources would not be damaged as a result of the horse gather, however, wild horses can cause damage to cultural resources due to trampling, especially around water sources where the occurrence of cultural resources is often high.

## **Wild Horses**

**Proposed Action** - Impacts to wild horses under the Proposed Action may occur to either the individual animals or the population as a whole. These impacts include: handling stress associated with the gather, capture, and transportation of animals. The intensity of these impacts would vary by individual, and are indicated by behaviors ranging from nervous agitation to physical distress. Mortality of individuals from this impact is infrequent but does occur in one half to one percent of horses gathered in a given gather.

**No Action Alternative** - Under this alternative wild horses would not be gathered from the identified allotments. The horses would not be subject to any individual direct or indirect impacts as described above as a result of a gather operation. However, allowing large horse numbers to remain within these allotments during severe drought conditions would have several negative consequences to the animals, including starvation, dehydration, and social stress.

The population of wild horses would compete for the available water and extremely limited forage resources. The mares and colts would be affected most severely. The areas closest to water would experience severe utilization and degradation. Over the course of time, the animals would deteriorate in condition as a result of declining forage availability and the increasing distance traveled to forage. Many horses would likely die through the winter if average snowfall levels are received, especially foals and mares. The health of the wild horse herd population, the condition of the range, and other range users would be impacted. Further, heavy forage use would degrade rangeland resources.

### **Cumulative Impacts**

Cumulative impacts are impacts on the environment, which result from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. Implementation of the proposed action would reduce the wild horse population within the McGuffy Spring and Mahogany Peak Allotments. Implementation would reduce stress of perennial plant species during a severe drought period and would result in an increase in vegetation density, vigor, reproduction, productivity, and forage availability following the drought.

Past, present, and reasonably foreseeable activities which would be expected to contribute to the cumulative impacts of implementing the proposed action consists of continued livestock grazing in the allotments, removal of livestock due to drought conditions, fencing of riparian areas, and maintenance of existing range improvement projects. These past, present, and reasonably foreseeable activities would be expected to generate cumulative impacts to the proposed action by influencing the forage quality, abundance, and continuity within the allotments.

These impacts would be expected to be marked by changes occurring slowly over time. The Ely Field Office would continue to identify these impacts as they occur, and mitigate them as needed on a project specific basis. The proposed action would contribute to the cumulative impacts of future actions by maintaining the allotments at appropriate management level (AML).

### **Mitigation Measures**

The proposed action incorporates proven standard operating procedures, which have been developed over time. These SOPs (Appendix I) represent the "best methods" for reducing impacts associated with gathering, handling, and transporting. Additional mitigation measures are not warranted.

### **Suggested Monitoring**

Weed detection would be incorporated into normal monitoring activities.

## **Consultation and Coordination**

### **Intensity of Public Interest and Record of Contacts**

Richard Sewing - National Mustang Association

Dawn Lappin - Wild Horse Organized Assistance (WHOA)

Cathy Barcomb - Nevada Commission for the Preservation of Wild Horses

### **Internal District Review**

Ely Field Office/Caliente Field Station Staff

Alan Shepherd	Wild Horses/Supervisory Natural Resource Specialist
Melissa Whittemore	Environmental Coordinator
Bill Smith	Wildlife Biologist/Riparian/T&E
Carolyn Sherve-Bybee	Cultural Resources
Bruce Winslow	Recreation/Wilderness
Kristin May	Soil/Air/Water
Karen Prentice	Noxious Weeds
Mike Kuyper	Rangeland Management Specialist

## **APPENDIX I**

### **STANDARD OPERATING PROCEDURES**

All gathers would be conducted by contractors or agency personnel. The same procedures for gathering and handling wild horses and burros apply whether a contractor or BLM personnel are used. The following stipulations and procedures will be followed to ensure the welfare, safety and humane treatment of the wild horses and burros (WH&B) in accordance with the provisions of 43 CFR 4700.

Gathers are normally conducted for one of the following reasons:

1. Regularly scheduled gathers to obtain or maintain the Appropriate Management Level (AML).
2. Drought conditions that could cause mortality to WH&B due to the absence of water or forage, and where continued grazing may result in a downward trend to the vegetative communities due to plant mortality and reduced vigor and productiveness.
3. Fires that remove forage to the extent that there is inadequate forage to sustain the population or to allow recovery of native vegetation.
4. Utilization levels that reach a point where a continued increase in utilization would cause a downward trend in the plant communities and impede meeting standards for rangeland health.
5. Monitoring indicates that WH&B use would begin to cause a downward trend in riparian function or not permit the recovery of riparian vegetation determined to be in undesirable condition.

#### **A. CAPTURE METHODS USED IN THE PERFORMANCE OF A GATHER –**

##### **Contract Operations**

1. Helicopter - Drive Trapping

Capture attempts may be accomplished by utilizing a helicopter to drive animals into a temporary trap. If this method is selected the following applies:

- a. A minimum of two saddle-horses shall be immediately available at the trap site to accomplish roping if necessary. Roping shall be done as determined by the BLM. Under no circumstances shall animals be tied down for more than one hour.
- b. The contractor shall assure that bands remain together, and that foals shall not be left behind.

- c. A domestic saddle horse(s) may be used as a prada (or "Judas") horse to lead the wild horses into the trap site. Individual ground hazers may also be used to assist in the gather.

2. Helicopter - Roping

Capture attempts may be accomplished by utilizing a helicopter to drive animals to ropers. If this method is selected the following applies:

- a. Under no circumstances shall animals be tied down for more than one hour.
- b. The contractor shall assure that bands remain together, and that foals shall not be left behind.

**BLM Conducted Gather - Non-Contract Operations**

- 1. Gather operations will be conducted in conformance with the Wild Horse and Burro Aviation Management Handbook (March 2000).
- 2. Two-way radio communication between the helicopter and the ground crew will be maintained at all times during the operation.

**B. Safety and Communications**

- 1. The Contractor shall have the means to communicate with the BLM and all contractor personnel engaged in the capture of wild horses and burros utilizing a VHF/FM Transceiver or VHF/FM portable Two-Way radio. If communications are ineffective the government will take steps necessary to protect the welfare of the animals.
  - a. The proper operation, service and maintenance of all contractor furnished property is the responsibility of the Contractor. The BLM reserves the right to remove from service any contractor personnel or contractor furnished equipment which, in the opinion of the BLM violate contract rules, are unsafe or otherwise unsatisfactory. In this event, the Contractor will be notified in writing to furnish replacement personnel or equipment within 48 hours of notification. All such replacements must be approved in advance of operation by the BLM.
  - b. The Contractor shall obtain the necessary FCC licenses for the radio system.
  - c. All accidents occurring during the performance of any delivery order shall be immediately reported to the BLM.

2. Should the helicopter be employed, the following will apply:
  - a. The Contractor must operate in compliance with Federal Aviation Regulations, Part 91. Pilots provided by the Contractor shall comply with the Contractor's Federal Aviation Certificates, applicable regulations of the State in which the gather is located.
  - b. Fueling operations shall not take place within 1,000 feet of the animals.
  - c. At time of delivery order completion, the contractor shall provide the BLM with a completed copy of the Service Contract Flight Hour Report.

**C. Trapping and Care**

1. The primary concern of the contractor is the safe and humane handling of all animals captured. All capture attempts shall incorporate the following:
  - a. All trap and holding facilities locations must be approved by the BLM prior to construction. The Contractor may also be required to change or move trap locations as determined by the BLM. All traps and holding facilities not located on public land must have prior written approval of the landowner.
  - b. A cultural resources investigation by an archaeologist or an archaeological technician would be conducted prior to trap or holding facility construction. If cultural values are found, an alternative site would be selected.
  - c. Prior to facility (temporary traps and holding corrals) construction, the proposed locations would be examined for the presence of noxious weeds. If noxious weed infestations are present, the areas will be flagged, and the necessary facilities will be placed elsewhere in order to avoid the infested areas. The contractor and his personnel would also be instructed to avoid camping in or driving through known noxious weed infestations.
2. The rate of movement and distance the animals travel shall not exceed limitations set by the BLM who will consider terrain, physical barriers, weather, condition of the animals and others factors.
3. All traps, wings, and holding facilities shall be constructed, maintained and operated to handle the animals in a safe and humane manner and be in accordance with the following:
  - a. Traps and holding facilities shall be constructed of portable panels, the top of which shall not be less than 72 inches high for horses and 60 inches for

burros, and the bottom rail of which shall not be more than 12 inches from ground level. All traps and holding facilities shall be oval or round in design.

- b. All loading chute sides shall be a minimum of 6 feet high and shall be fully covered with plywood (without holes) or like material.
  - c. All runways shall be a minimum of 30 feet long and a minimum of 6 feet high for horses, and 5 feet high for burros, and shall be covered with plywood, burlap, plastic snow fence or like material a minimum of 1 foot to 5 feet above ground level for burros and 1 foot to 6 feet for horses. The location of the government furnished portable restraining chute to restrain, age, or provide additional care for animals shall be placed in the runway in a manner as instructed by or in concurrence with the BLM..
  - d. All crowding pens including the gates leading to the runways shall be covered with a material which prevents the animals from seeing out (plywood, burlap, etc.) and shall be covered a minimum of 1 foot to 5 feet above ground level for burros and 2 feet to 6 feet for horses. Eight linear feet of this material shall be capable of being removed or let down to provide a viewing window.
  - e. All pens and runways used for the movement and handling of animals shall be connected with hinged self-locking gates.
- 4. No fence modifications will be made without authorization from the COR/PI. The Contractor/BLM shall be responsible for restoration of any fence modifications he has made.
  - 5. When dust conditions occur within or adjacent to the trap or holding facility, the Contractor/BLM shall be required to wet down the ground with water.
  - 6. Alternate pens, within the holding facility shall be furnished by the Contractor to separate mares or jennies with small foals, sick and injured animals, and estrays from the other animals. Animals shall be sorted as to age, number, size, temperament, sex, and condition when in the holding facility so as to minimize, to the extent possible, injury due to fighting and trampling. Under normal conditions, the government will require that animals be restrained for the purpose of determining an animal's age or other similar practices. In these instances, a portable restraining chute will be provided by the government. Alternate pens shall be furnished by the Contractor to hold animals if the specific gathering requires the animals be released back into the capture area(s). In areas requiring one or more satellite traps, and where a centralized holding facility is utilized, the Contractor may be required to provide additional holding pens to segregate animals transported from remote locations so they may be returned to their



traditional ranges. Either segregation or temporary marking and later segregation will be at the discretion of the BLM.

7. The Contractor shall provide animals held in the traps and/or holding facilities with a continuous supply of fresh clean water at a minimum rate of 10 gallons per animal per day. Animals held for 10 hours or more in the traps or holding facilities shall be provided good quality hay at the rate of not less than two pounds of hay per 100 pounds of estimated body weight per day.
8. It is the responsibility of the Contractor/BLM to provide security to prevent loss, injury or death of captured animals until delivery to final destination.
9. The Contractor/BLM shall restrain sick or injured animals if treatment is necessary. A veterinarian may be called to make a diagnosis and final determination. Destruction shall be done by the most humane method available. Authority for humane destruction of wild horses (or burros) is provided by the Wild Free-Roaming Horse and Burro Act of 1971, Section 3(b)(2)(A), 43 CFR 4730.1, BLM Manual 4730 - Destruction of Wild Horses and Burros and Disposal of Remains, and is in accordance with BLM policy as expressed in Instructional Memorandum No. 98-141.

Any captured horses that are found to have the following conditions may be humanely destroyed:

- a. The animal shows a hopeless prognosis for life.
  - b. Suffers from a chronic disease.
  - c. Requires continuous care for acute pain and suffering.
  - d. Not capable of maintaining a body score of one.
  - e. The animal is a danger to itself or others.
10. Animals shall be transported to final destination from temporary holding facilities within 24 hours after capture unless prior approval is granted by the BLM for unusual circumstances. Animals to be released back into the HMA following gather operations may be held up to 21 days or as directed by the BLM. Animals shall not be held in traps and/or temporary holding facilities on days when there is no work being conducted except as specified by the BLM. The Contractor shall schedule shipments of animals to arrive at final destination between 7:00 a.m. and 4:00 p.m. No shipments shall be scheduled to arrive at final destination on Sunday and Federal holidays, unless prior approval has been obtained by the BLM. Animals shall not be allowed to remain standing on trucks while not in transport for a combined period of greater than three (3) hours. Animals that are to be released back into the capture area may need to be transported back to the original trap site. This determination will be at the discretion of the BLM.
  11. The BLM will issue a Notice of Intent to Impound Unauthorized Livestock prior to all gathers. Branded or privately owned animals whose owners are known will

be impounded by BLM, and if not redeemed by payment of trespass and capture fees, will be sold at public auction. If owners are not known, the private animals will be turned over to the State for Processing under Nevada estray laws.

**E. Motorized Equipment**

1. All motorized equipment employed in the transportation of captured animals shall be in compliance with appropriate State and Federal laws and regulations applicable to the humane transportation of animals. The Contractor shall provide the BLM with a current safety inspection (less than one year old) for all motorized equipment and tractor-trailers used to transport animals to final destination.
2. All motorized equipment, tractor-trailers, and stock trailers shall be in good repair, of adequate rated capacity, and operated so as to ensure that captured animals are transported without undue risk or injury.
3. Only tractor-trailers or stock trailers with a covered top shall be allowed for transporting animals from trap site(s) to temporary holding facilities, and from temporary holding facilities to final destination(s). Sides or stock racks of all trailers used for transporting animals shall be a minimum height of 6 feet 6 inches from the floor. Single deck tractor-trailers 40 feet or longer shall have two (2) partition gates providing three (3) compartments within the trailer to separate animals. Tractor-trailers less than 40 feet shall have at least one partition gate providing two (2) compartments within the trailer to separate the animals. Compartments in all tractor-trailers shall be of equal size plus or minus 10 percent. Each partition shall be a minimum of 6 feet high and shall have a minimum 5 foot wide swinging gate. The use of double deck tractor-trailers is unacceptable and shall not be allowed.
4. All tractor-trailers used to transport animals to final destination(s) shall be equipped with at least one (1) door at the rear end of the trailer which is capable of sliding either horizontally or vertically. The rear door(s) of tractor-trailers and stock trailers must be capable of opening the full width of the trailer. Panels facing the inside of all trailers must be free of sharp edges or holes that could cause injury to the animals. The material facing the inside of all trailers must be strong enough so that the animals cannot push their hooves through the side. Final approval of tractor-trailers and stock trailers used to transport animals shall be held by the BLM.
5. Floors of tractor-trailers, stock trailers, and the loading chute shall be covered and maintained with wood shavings to prevent the animals from slipping.
6. Animals to be loaded and transported in any vehicle or trailer shall be as directed by the BLM and may include limitations on numbers according to age, size, sex, temperament, and animal condition. The following minimum square feet per animal shall be allowed in all trailers:

11 sq. ft. per adult horse (1.4 linear ft. in an 8ft. wide trailer);  
6 sq. ft. per horse foal (.75 linear ft. in an 8ft. wide trailer).

7. Prior to any gathering operations, the BLM will provide for a pre-capture evaluation of existing conditions in the gather areas. The evaluation will include animal condition, prevailing temperatures, drought conditions, soil conditions, road conditions, and a topographic map with location of fences, other physical barriers, and acceptable trap locations in relation to animal distribution. The evaluation will determine the level of activity likely to cause undue stress to the animals, and whether such stress would necessitate a veterinarian be present. If it is determined that capture efforts necessitate the services of a veterinarian, one would be obtained before capture would proceed. The Contractor will be appraised of all the conditions and will be given directions regarding the capture and handling of animals to ensure their health and welfare is protected.
8. If the BLM determines that dust conditions are such that animals could be endangered during transportation, the Contractor will be instructed to adjust speed.
9. Trap sites will be located to cause as little injury and stress to the animals, and as little damage to the natural resources of the area, as possible. Sites will be located on or near existing roads. Additional trap sites may be required, as determined by the BLM, to relieve stress caused by specific conditions at the time of the gather (i.e. dust, rocky terrain, temperatures, etc.).

**F. Animal Characteristics and Behavior**

Releases of wild horses would be near available water. If the area is new to them, a short term adjustment period may be required while the wild horses become familiar with the new area.

**G. Public Participation**

It is BLM policy that the public will not be allowed to come into direct contact with wild horses or burros being held in BLM facilities. Only BLM personnel, or contractors may enter the corrals or directly handle the animals. The general public may not enter the corrals or directly handle the animals at anytime or for any reason during BLM operations.

## **H. Responsibility and Lines of Communication**

### **ELY**

#### **Contracting Officer's Representatives**

Jared Bybee  
Alan Shepherd

#### **Project Inspectors**

Mike Perkins  
Paul Podborny  
Jared Redington

The Contracting Officer's Representatives (CORs) and the project inspectors (PIs) have the direct responsibility to ensure the Contractor's compliance with the contract stipulations. The Ely Assistant Field Manager for Renewable Resources and the Ely Field Manager will take an active role to ensure the appropriate lines of communication are established between the field, Field Office, State Office, National Program Office, and PVC Corral offices. All employees involved in the gathering operations will keep the best interests of the animals at the forefront at all times.

All publicity, formal public contact and inquiries will be handled through the Assistant Field Manager for Renewable Resources. This individual will be the primary contact and will coordinate the contract with the PVC Corrals to ensure animals are being transported from the capture site in a safe and humane manner and are arriving in good condition.

The contract specifications require humane treatment and care of the animals during removal operations. These specifications are designed to minimize the risk of injury and death during and after capture of the animals. The specifications will be vigorously enforced.

Should the Contractor show negligence and/or not perform according to contract stipulations, he will be issued written instructions, stop work orders, or defaulted.

